

**From:** [Pickles, Dana](#)  
**To:** [Clark, Jennifer \(USAMT\)](#)  
**Cc:** [Weldon, Ryan \(USAMT\)](#)  
**Subject:** RE: Need help  
**Date:** Friday, September 17, 2021 9:10:45 AM  
**Attachments:** [image001.jpg](#)  
[image004.jpg](#)  
[image002.jpg](#)  
[image006.jpg](#)  
[image008.jpg](#)

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A delay is caused when something that is possibly prohibiting appears on the subjects record and requires NICS to research it to determine if the subject is prohibited or not for firearms possession. A proceed occurs once the subject is determined not to be prohibited.

*For example:*

I try to purchase a firearm and NICS runs my background check and they find that I have a misd battery arrest from 1996 with no final disposition. As battery is all meets in all states for the use or threatened use of physical force in regards to misd crimes of domestic violence (MCDVs... federally prohibiting under 18USC922g9) they have to research to see if A) I was convicted (and if so was if for the battery charge or was it reduced to assault, disorderly conduct, etc) and B) what was the relationship of the victim to me. Only certain relationships meet federally (such as spouse/ ex spouse, cohabitating or formerly cohabitating boyfriend/girlfriend, share a child in common, etc).

While NICS is researching this information I would be in a delayed status. After the 3<sup>rd</sup> business day (called the brady date) if NICS has still not determined if I am prohibited or not I can legally take possession of the firearm. Once NICS determines that I am *not* prohibited (let's say I battered my brother on the battery example I gave; that relationship does not meet federally for MCDV) they would proceed me and I could get the firearm if I haven't already taken possession of it.

**Dana Pickles**  
**Program Analyst**  
**Denial Enforcement & NICS Intelligence Branch**  
**US Dept. Of Justice Bureau of ATF**  
**304.616.4181**

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**From:** Clark, Jennifer (USAMT) <JClark1@usa.doj.gov>  
**Sent:** Friday, September 17, 2021 10:23 AM  
**To:** Pickles, Dana <Dana.Pickles@atf.gov>  
**Cc:** Weldon, Ryan (USAMT) <RWeldon@usa.doj.gov>  
**Subject:** RE: Need help

Thank you! That information is very helpful.  
I do have one question on proceed. What causes a proceed versus delayed response?

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**From:** Pickles, Dana <[Dana.Pickles@atf.gov](mailto:Dana.Pickles@atf.gov)>  
**Sent:** Friday, September 17, 2021 5:33 AM  
**To:** Clark, Jennifer (USAMT) <[JClark1@usa.doj.gov](mailto:JClark1@usa.doj.gov)>  
**Cc:** Weldon, Ryan (USAMT) <[RWeldon@usa.doj.gov](mailto:RWeldon@usa.doj.gov)>  
**Subject:** RE: Need help

Hi all.

When a subject attempts to purchase a firearm in an FBI NICS state (only 37 states currently use NICS for all firearms background checks with another 6 states only using NICS for long gun checks) they will receive one of three responses: proceed, denied or delayed (also called "open").

A proceeded NTN can be immediate or can occur after several days (or longer) if NICS needs to research any potential prohibitions found on the subjects record. While NICS is researching any potential prohibitions the NTN is put in a delayed status. The firearm can be legally transferred after 3 business days. Once NICS has completed their research and determined to proceed the transaction the NTN (NICS transaction number) is purged by law from NICS system at midnight the night of the proceed. NICS will no longer have any information related to that attempted purchase.

A denied NTN can also be immediate or can occur after several days (or longer) if NICS needs to research any potential prohibitions found on the subjects

record. While NICS is researching any potential prohibitions the NTN is put in a delayed status. The firearm can be legally transferred after 3 business days. However, if the subject is ultimately denied the denial comes over to the ATF (via an electronic batch file) the next day and if the firearm had already been transferred the DENI branch will refer the NTN to the field for firearm retrieval (referred delayed). If the subject did not get the firearm the DENI branch will either refer it to the field (referred standard) if it meets that field divisions referral guidelines or the NTN will be set to not referred if it does not meet that field divisions referral guidelines. All denials stay in our host application (ANR) permanently.

A delayed (or open) NTN occurs when FBI NICS does not have the necessary information to proceed or deny a subject. The firearm can be legally transferred after 3 business days if the NTN has been delayed. If NICS never makes a proceed or denied determination the NTN is purged off of the NICS system after 88 days. NICS will no longer have any information related to that attempted purchase.

I should note that most of the big box stores (Walmart, Bass Pro, etc) will never transfer without a proceed but almost all of the smaller FFL's will make the transfer if the subject is not denied by the 3<sup>rd</sup> business day.

I hope this helps clarify the process for you. Feel free to let me know if you have any other questions or concerns.

**Dana Pickles**  
**Program Analyst**  
**Denial Enforcement & NICS Intelligence Branch**  
**US Dept. Of Justice Bureau of ATF**  
**304.616.4181**

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**From:** Clark, Jennifer (USAMT) <[JClark1@usa.doj.gov](mailto:JClark1@usa.doj.gov)>

**Sent:** Thursday, September 16, 2021 6:18 PM  
**To:** Pickles, Dana <[Dana.Pickles@atf.gov](mailto:Dana.Pickles@atf.gov)>  
**Cc:** Weldon, Ryan (USAMT) <[RWeldon@usa.doj.gov](mailto:RWeldon@usa.doj.gov)>  
**Subject:** RE: Need help

Analyst Pickles:

Thank you so much for your information and help on this matter. Can you please explain the difference, if any, between a delayed, no response, and then after three days the firearm can be transferred vs. the delayed and a proceed notice. What triggers a proceed response? Some of the paperwork we received with the 'proceed' response said that it would be delayed while NICS conducted its research but that the firearm could be transferred in three days. Is that true for all proceed responses?

Thank you!  
Jen

**Jennifer S. Clark**

Assistant U.S. Attorney  
U.S. Attorney's Office – District of Montana  
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**From:** Feuerstein, Stephen V. <[Stephen.Feuerstein@atf.gov](mailto:Stephen.Feuerstein@atf.gov)>  
**Sent:** Thursday, September 16, 2021 11:05 AM  
**To:** Clark, Jennifer (USAMT) <[JClark1@usa.doj.gov](mailto:JClark1@usa.doj.gov)>; Sprenger, Michael R. <[Michael.Sprenger@atf.gov](mailto:Michael.Sprenger@atf.gov)>  
**Subject:** FW: Need help  
**Importance:** High

Well, I was correct they have been purged and NICS did not complete their investigation properly, thus they allowed a prohibited person to have the firearms. With no court of record to prove he was provided the admonishment this is not a good situation. Sorry to be the bearer of bad news. Below is the information from our NICS liaison which confirms all. I have drafted two letters, admonishment and notification, feel free to utilize either, both, whatever is needed to provide to DEFRANCE's attorney. The second letter actually has an acknowledgement form as the last page which has blank spots for the third party and DEFRANCE to fill in and acknowledge. This is what we utilize for such occasions, actually use these when we get a NICS or learn of a prohibited person who has acquired firearms with there being an agent of the state providing based on no response from NICS.

Stephen (Steve) Feuerstein  
Investigative Analyst (IA)  
DFD NICS Coordinator  
ATF Billings Field Office

2929 3<sup>rd</sup> Ave. North Ste. 528  
Billings, MT. 59101  
Ph. 406-657-9700  
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**From:** Pickles, Dana <[Dana.Pickles@atf.gov](mailto:Dana.Pickles@atf.gov)>  
**Sent:** Thursday, September 16, 2021 10:03 AM  
**To:** Feuerstein, Stephen V. <[Stephen.Feuerstein@atf.gov](mailto:Stephen.Feuerstein@atf.gov)>  
**Cc:** Kimes, Christine N. <[Christine.Kimes@atf.gov](mailto:Christine.Kimes@atf.gov)>; Reeves, Carol A. <[Carol.Reeves@atf.gov](mailto:Carol.Reeves@atf.gov)>  
**Subject:** FW: Need help  
**Importance:** High

Hi Stephen.

Christine is out of the office until Tuesday and is on a detail until 10/11. I will try to assist you with your request.

You reference denied, proceeded and “no answer” transactions for this subject. The DENI branch only gets denied transactions from FBI NICS. We do not get proceeds or delays (which I’m guessing are the ones you referred to as “no answer”). **Proceeds are purged by NICS the night they are proceeded and are gone forever by law. If no decision is ever made on a delayed transaction they are purged by NICS after 88 days and are gone forever by law.**

Looking at the NTN on the attached 4473’s you submitted I found the following:

1. NTN 2TLN6WG – the 4473 was marked DELAYED (box 21c). As I do not see this NTN in ANR that tells me it was not denied. It was either proceeded (and then purged off NICS system) or was left delayed (delays purge off NICS system after 88 days)
2. NTN 10015ZV34 – the 4473 was marked DELAYED (box 21c). As I do not see this NTN in ANR that tells me it was not denied. It was either proceeded (and then purged off NICS system) or was left delayed (delays purge off NICS system after 88 days)

3. NTN 100JMSSST – the 4473 was marked DELAYED (box 19c) and then was updated to PROCEED (box 19d). As the subject was proceeded the NTN purged by law off NICS system midnight the night of the proceed.
4. NTN 100JW6NZT– the 4473 was marked DELAYED (box 19c). As I do not see this NTN in ANR that tells me it was not denied. It was either proceeded (and then purged off NICS system) or was left delayed (delays purge off NICS system after 88 days)
5. NTN 100PYP1ZR – the 4473 was marked DELAYED (box 19c) and then was updated to PROCEED (box 19d). As the subject was proceeded the NTN purged by law off NICS system midnight the night of the proceed.

In summary, I do not see where the subject was every denied on any of the attached 4473's. The subject was proceeded twice and left in a delayed status on the other three transactions and I can only assume those NTNs were never resolved and thus purged by NICS after 88 days. As the FFL is allowed to transfer the firearm(s) after 3 business days all the transfers were done legally.

I hope that helps.

**Dana Pickles**  
**Program Analyst**  
**Denial Enforcement & NICS Intelligence Branch**  
**US Dept. Of Justice Bureau of ATF**  
**304.616.4181**

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**From:** Reeves, Carol A. <[Carol.Reeves@atf.gov](mailto:Carol.Reeves@atf.gov)>  
**Sent:** Thursday, September 16, 2021 11:38 AM  
**To:** Pickles, Dana <[Dana.Pickles@atf.gov](mailto:Dana.Pickles@atf.gov)>  
**Cc:** Feuerstein, Stephen V. <[Stephen.Feuerstein@atf.gov](mailto:Stephen.Feuerstein@atf.gov)>  
**Subject:** FW: Need help  
**Importance:** High

Dana,  
Since you are acting for Christine, can you help Stephen? I can't locate any of the ntn's listed on the forms in ANR as well.

*Thanks*

*Carol Ann Reeves*

*Sr. Specialist, Denial Enforcement and NICS Intelligence Branch  
244 Needy Road  
Martinsburg, WV 25401  
(304) 616-4182  
Toll Free Fax (866) 561-2048  
email:Carol.Reeves@atf.gov*

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**From:** Feuerstein, Stephen V. <[Stephen.Feuerstein@atf.gov](mailto:Stephen.Feuerstein@atf.gov)>

**Sent:** Thursday, September 16, 2021 11:33 AM

**To:** Kimes, Christine N. <[Christine.Kimes@atf.gov](mailto:Christine.Kimes@atf.gov)>; Reeves, Carol A. <[Carol.Reeves@atf.gov](mailto:Carol.Reeves@atf.gov)>

**Subject:** Need help

Christine and or Carol, we have a subject here in MT that has had multiple transactions, some denied, some proceed and some no answer from NICS. I tried to pull up the Brady reports in ANR and they must have been purged or not entered as there was a proceed or no action was ever entered. The US Attorney has charged the subject and he is claiming that the government never told him he was prohibited by his DV conviction. Unfortunately the court issuing the DV conviction was not a court of record at that time and we have no way of determining if the judge advised of the prohibition. As such I am trying to obtain the Brady reports or any of the information that NICS input into their research on each NTN for each purchase.

Who do I need to contact to help with this? Is this even a possibility?

I have attached each 4473 which contain the NTN #'s.

Thank you for your help.

Stephen (Steve) Feuerstein

Investigative Analyst (IA)

DFD NICS Coordinator

ATF Billings Field Office

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